

IN SENATE OF THE UNITED STATES.

MARCH 2, 1829.

Read, and ordered to be printed

MR. BERRIEN MADE THE FOLLOWING REPORT:

The Committee on the Judiciary, to whom was referred the petition of Eleanor Worthington, Executrix, and James T. Worthington, Executor, on the estate of the late Thomas Worthington, deceased,

REPORT—

That on the 30th day of June, in the year 1800, one Samuel Finley was appointed Receiver of Public Moneys at Chillicothe, in the then Northwestern Territory, (now State of Ohio,) and gave bond in the sum of ten thousand dollars, for the faithful discharge of his duties; which said bond was signed by the said Thomas Worthington, deceased, as one of his sureties. The said Samuel Finley continued in office as Receiver of Public Moneys, from the date of his appointment, until the year 1819; when, in consequence of his defalcation in paying over the moneys by him collected, to the Treasury of the United States, a suit was commenced against him, and judgment obtained for the sum of \$22,390 13, with costs, at the September term of the United States District Court, in the year 1819. It appears from a transcript of the record in this case, signed by the Clerk of the said District Court, that no execution was issued on this judgment against the property of the said Samuel Finley, until the twenty-sixth day of July, in the year one thousand eight hundred and twenty-one. It also appears by the evidence submitted to the committee, that at the time of the rendition of the judgment, and for a considerable time thereafter, that the said Samuel Finley was in the possession of property, of much greater value than the amount of the judgment, and that if vigilant measures had been pursued, that the debt due the United States might have been secured out of the property of the said Samuel Finley. During this period of time, owing to the depreciation of property, the circumstances of the country, and a total change in the affairs of the said Samuel Finley, the government has been unable to collect the whole amount of the debt from him. After this transaction, and a failure to collect the money from Finley, a resort was had to the said Thomas Worthington, now deceased, then the only surviving surety, for the payment of the balance remaining due and unpaid, and judgment was obtained against him for the amount.

It moreover appears, that before entering up the said judgment, the Secretary of the Treasury, on the suggestion of the petitioner, authorized him to take a deed of trust from the said Samuel Finley, to secure the balance due to the United States; that the said Samuel Finley had, at that time, sufficient property to satisfy the said claim, and was willing to execute the said deed; but,

on advising with the Attorney of the United States for that district, he recommended a judgment, instead of a deed of trust, which was accordingly entered up; that the real estate of the said Samuel Finley was held by equitable titles, which were not bound by the said judgment, but which would have been conveyed by the proposed deed, and consequently could not be subjected to the claim of the United States under the judgment; that the value of these bonds has therefore been lost to the United States, by the mistake of its own agent, after having been placed in a situation to be subjected to that claim by the vigilance of the petitioner.

The petitioners pray that they may be relieved from the payment of this sum, and the effects of the judgment so rendered against the said Thomas Worthington, deceased, and that the Congress of the United States would interpose its legislative authority in their behalf.

The committee are opinion, from the evidence submitted to them, and from a full view of the case, that there are strong equitable considerations in favor of the prayer of the petitioners, and that it is the duty of Congress to grant relief. They therefore report a bill for that purpose.